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State of California—Health and Human Services Agency
Department of Health Services



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January 9, 2004

AFL # 04-01

TO: General Acute Care Hospitals

SUBJECT: Increased Patient Accommodations due to seasonal or unexpected patient influx.

BACKGROUND: The Department of Health Services, Licensing and Certification program (DHS, L&C) is issuing this letter to clarify DHS, L&C's authority to address situations of temporary hospital overcrowding or saturation due to disease outbreak or an unexpected event such as a mass causality incident. This memo describes the regulatory mechanisms that DHS L&C utilizes in an attempt to work with hospitals when they are faced with the problem of temporary hospital saturation due to a rapid influx of patients. A "state of emergency" declaration by the local health officer or Governor's proclamation is not necessary in order to use the options described in this memo,

AUTHORITY: California Code of Regulations, Title 22, , §70809 (a), (b), & (c)

- **Increased Patient Accommodation** - Hospitals are expected to take proactive steps as outlined in their own policies and emergency plans to anticipate and manage times of high patient influx. However, when the good faith efforts of the hospital and the local emergency medical services authority (LEMSA) have failed to mitigate the problem of high patient influx, DHS L&C district offices may grant hospitals, after review and when appropriate, temporary permission to exceed licensed bed capacity. CCR Title 22, §70809 (a) states "No hospital shall have more patients or beds set up for overnight use by patients than the approved licensed bed capacity except in the case of a justified emergency when temporary permission may be granted by the director or his designee."

CCR Title 22 §70809 (b) also states "Patients shall not be housed in areas which have not been approved by the Department for patient housing and which have not been granted a fire clearance by the State Fire Marshal, except as provided in paragraph (a) above." Under this provision, DHS L&C district offices may grant hospitals temporary permission to house patients in areas which were not previously approved for patient care if a justified emergency situation exists, and is in the best interest of patient care to do so.

Additionally, CCR Title 22 §70809 (b) states that “Five percent of a facility’s total licensed bed capacity may be used for a classification other than that designated on the license. Upon application to the Director and a showing that seasonal fluctuations justify, the Director may grant the use of an additional five percent of the beds for other than the classified use.

The DHS, L&C district administrators or managers (DA/DM) may act on behalf of the director to give this temporary permission to hospitals to exceed their licensed bed capacity or use hospital space in a manner other than that approved by their license in a justified emergency. Hospitals may initiate these requests by phone or fax during business hours. The DA/DM will then inquire as to the steps taken by the hospital to mitigate the over- capacity problem and may require documentation of the hospital’s efforts (See attachment A for a suggested worksheet – “DHS L&C Temporary Permission for Increased Patient Accommodations Request Worksheet”). As long as the DA/DM is satisfied that the hospital has done what is reasonably possible under the specific circumstances to handle the situation, then permission to exceed licensed bed capacity will be granted. This permission is time limited and the conditions under which the permission is granted must be specified by the district office. If a hospital requires permission to exceed their licensed capacity outside of business hours, hospitals should contact the Office of Emergency Services (OES) Warning Center at (916) 845-8911 and ask that they notify the DHS Duty officer, who will in turn contact L&C.

Because observation beds in emergency services departments are not counted in the licensed bed capacity of the hospital [CCR T 22 70419 (b), 70459 (b), and 70657(b)] hospitals are expected to meet their obligations under state and federal laws to provide emergency services without regard for any requests to increase patient accommodations.

If you have any questions about this memo, or the enclosed attachment, please call Jocelyn Montgomery, at (916) 552-9365.

Sincerely,

Original signed by Brenda Klutz

Brenda Klutz
Deputy Director

Attachment

cc: Emergency Medical Services Authority
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